



# Journal of the Senate

State of Indiana

116th General Assembly

First Regular Session

Eleventh Meeting Day

Tuesday Afternoon

January 27, 2009

The Senate convened at 1:47 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Senator Sue Landske.

The Pledge of Allegiance to the Flag was led by Senator Landske.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Arnold	Lubbers
Becker	Merritt
Boots	Miller
Bray	Mishler
Breaux	Mrvan
Brodén	Nugent
Buck	Paul
Charbonneau	Randolph
Deig	Rogers
Delph	Simpson
Dillon	Sipes
Errington	Skinner
Gard	Steele
Head	Stutzman
Hershman	Tallian
Holdman	Taylor
Hume	Walker
Kenley	Waltz
Kruse	Waterman
Lanane	Wyss
Landske	Yoder
Lawson	M. Young
Leising	R. Young
Lewis	Zakas

Roll Call 17: present 50. The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill 418, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

LANDSKE, Chair

Report adopted.

### COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill 14, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-11-10-26, AS AMENDED BY P.L.164-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

(1) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

(1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and

(2) provide proof of identification;

before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot and the voter's absentee ballot shall be treated as a provisional ballot.

**(j) All locations where a voter is entitled to vote under this section must comply with the polling place accessibility requirements of IC 3-11-8."**

Renumber all SECTIONS consecutively.

(Reference is to SB 14 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

LANDSKE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 174, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

STEELE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure reports that pursuant to Senate Rule 33(c), the following technical correction is to be made to Engrossed Senate Bill 126.

Page 2, line 26, after "and" delete "a".

(Reference is to ESB 126 as reprinted January 27, 2009.)

LONG, Chair

Report adopted.

## RESOLUTIONS ON FIRST READING

### Senate Resolution 10

Senate Resolution 10, introduced by Senator Breaux:

A SENATE RESOLUTION to Honor Edith Chowning on the celebration of her 103rd birthday;

*Whereas, Edith Chowning turned 103 years old on January 8, 2009;*

*Whereas, Edith Chowning is a lifelong resident of Indianapolis and was married to the late Dr. Frank Chowning;*

*Whereas, Edith Chowning enjoys reading, playing scrabble, and following current events;*

*Whereas, Edith Chowning is a repository of historical events and enjoys sharing interesting, informative, and often humorous narratives based on her memories of personal and historically significant events;*

*Whereas, Edith Chowning is a graduate of Shortridge High School and passionately recalls attending one of the first integrated high schools in Indianapolis;*

*Whereas, Edith Chowning resides at a local nursing home, but maintains her independence as evidenced by her meticulous dress and appearance as well as her ability to propel herself to and fro in her wheelchair;*

*Whereas, Edith Chowning is well known for her pleasant sense of humor, optimistic outlook on life, and love of chocolate;*

*Whereas, Edith Chowning is a deep and pensive soul who continues to live life to its fullest: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate wishes to congratulate Edith Chowning on the celebration of her 103<sup>rd</sup> birthday.

SECTION 2. That the Secretary of the Senate transmit a copy of this resolution to Edith Chowning and her family.

The resolution was read in full and adopted by voice vote.

### SENATE MOTION

Madam President: I move that Engrossed Senate Bill 47, which is eligible for third reading, be returned to second reading for purposes of amendment.

STEELE

Motion prevailed.

**RESOLUTIONS ON FIRST READING****House Concurrent Resolution 10**

House Concurrent Resolution 10, sponsored by Senator Simpson:

A CONCURRENT RESOLUTION honoring the life of Donald R. Lewis.

*Whereas, Strong leadership and meaningful involvement are necessary for a thriving community; and*

*Whereas, Donald R. Lewis served in the U.S. Navy and as the Richland Township Trustee for over 30 years; and*

*Whereas, Donald R. Lewis was a teacher, coach, school principal, councilor and superintendent for RB-BCSC; and*

*Whereas, Donald R. Lewis was a member of the Ellettsville Masonic Lodge #245, Bloomington VFW and American Legion, Retired Teachers Association, Stonebelt Shrine Club, Murat Shine, NRA, Ellettsville Lions Club, Ellettsville First United Methodist Church, and served as a Republican Precinct Committeeman: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly honor the life and spirit of community involvement embodied by Donald R. Lewis.

SECTION 2. That the Principal Clerk of the Indiana House of Representatives transmit a copy of this resolution to the family of Donald R. Lewis.

The resolution was read in full and adopted by standing vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

**MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 11 and the same is herewith returned to the Senate.

CLINTON MCKAY  
Principal Clerk of the House

**MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolutions 12 and 13 and the same are herewith transmitted for further action.

CLINTON MCKAY  
Principal Clerk of the House

**MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent

Resolutions 10 and 11 and the same are herewith transmitted for further action.

CLINTON MCKAY  
Principal Clerk of the House

**ENGROSSED SENATE BILLS  
ON THIRD READING****Engrossed Senate Bill 8**

Senator Steele called up Engrossed Senate Bill 8 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 18: yeas 47, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Lawson and Friend.

**Engrossed Senate Bill 21**

Senator Tallian called up Engrossed Senate Bill 21 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 19: yeas 49, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Lawson and Foley.

**Engrossed Senate Bill 41**

Senator Arnold called up Engrossed Senate Bill 41 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 20: yeas 50, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Lawson and Welch.

**Engrossed Senate Bill 173**

Senator Arnold called up Engrossed Senate Bill 173 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 21: yeas 50, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Niezgodski and Bartlett.

#### **Engrossed Senate Bill 225**

Senator Lubbers called up Engrossed Senate Bill 225 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning property.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 22: yeas 48, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Day and Foley.

#### **Engrossed Senate Bill 228**

Senator Lubbers called up Engrossed Senate Bill 228 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 23: yeas 37, nays 11. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Porter and Behning.

#### **Engrossed Senate Bill 246**

Senator Lawson called up Engrossed Senate Bill 246 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 24: yeas 47, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Michael and Richardson.

#### **Engrossed Senate Bill 269**

Senator Arnold called up Engrossed Senate Bill 269 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning

public safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 25: yeas 39, nays 9. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Tincher and Tyler.

#### **Engrossed Senate Bill 322**

Senator Charbonneau called up Engrossed Senate Bill 322 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 26: yeas 33, nays 15. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Tyler and Soliday.

### **REPORT OF THE PRESIDENT PRO TEMPORE**

Madam President: Due to a health emergency, I hereby report that Senators R. Young and Skinner shall be excused from voting on Senate Bills 228, 246, 269, and 322 on January 27, 2009.

LONG

Report adopted.

### **MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1049, 1271, 1415, and 1417 and the same are herewith transmitted to the Senate for further action.

CLINTON MCKAY  
Principal Clerk of the House

### **SENATE MOTION**

Madam President: I move that Senators Waterman and Steele be added as coauthors of Senate Bill 48.

HEAD

Motion prevailed.

### **SENATE MOTION**

Madam President: I move that Senator Delph be added as coauthor of Senate Bill 48.

HEAD

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Kruse be added as coauthor of Senate Bill 453.

WALKER

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Senate Bill 448.

CHARBONNEAU

Motion prevailed.

**RESOLUTIONS ON FIRST READING****House Concurrent Resolution 11**

House Concurrent Resolution 11, sponsored by Senator Simpson:

A CONCURRENT RESOLUTION honoring the accomplishments of Rachel Deloney.

*Whereas, The sport of Track and Field fosters sustained competitive excellence, interest and participation in a variety of events; and*

*Whereas, Rachel Deloney is the first girl in state history to win the discus championship three times and the first girl to win any state meet event three times: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly honor Rachel Deloney for her achievements.

SECTION 2. That the Principal Clerk of the Indiana House of Representatives transmit a copy of this resolution to Rachel Deloney.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

## SENATE MOTION

Madam President: I move that Senators Breaux, Buck, Merritt, and Paul be added as coauthors of Senate Bill 391.

ROGERS

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Broden, Buck, Charbonneau, Deig, Delph, Dillon, Errington, Gard, Head, Hershman, Holdman, Hume, Kenley, Kruse, Lanane, Landske, Lawson, Leising, Lewis, Long,

Lubbers, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Randolph, Rogers, Simpson, Sipes, Skinner, Steele, Stutzman, Tallian, Taylor, Walker, Waltz, Waterman, Wyss, Yoder, M. Young, R. Young, and Zakas be added as coauthors of Senate Resolution 10.

BREAUX

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Skinner be added as third author of Senate Bill 561.

HERSHMAN

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senators Lewis and Rogers be added as coauthors of Senate Bill 16.

HOLDMAN

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Hume be added as coauthor of Senate Bill 294.

STEELE

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Buck be added as coauthor of Engrossed Senate Bill 126.

WALTZ

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Bray be added as cosponsor of Engrossed House Concurrent Resolution 10.

SIMPSON

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senators Simpson, Gard, Breaux, and Rogers be added as coauthors of Senate Bill 437.

BECKER

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Holdman be added as second author, Senator Broden be added as third author, and Senator Walker be added as coauthor of Senate Bill 505.

ZAKAS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Rogers be added as third author of Senate Bill 175.

CHARBONNEAU

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Rogers be added as coauthor of Senate Bill 21.

TALLIAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Breaux and Merritt be added as coauthors of Engrossed Senate Bill 225.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Becker be added as coauthor of Engrossed Senate Bill 228.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lewis be added as second author of Senate Bill 424.

MISHLER

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Thursday, January 29, 2009.

LONG

Motion prevailed.

The Senate adjourned at 3:09 p.m.

JENNIFER L. MERTZ  
Secretary of the Senate

REBECCA S. SKILLMAN  
President of the Senate